

**DISTILLED
SPIRITS
COUNCIL
OF THE
UNITED
STATES**

Testimony submitted by

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Before the General Law Committee in support of

S.B. No. 14: AN ACT

***ENSURING THE REGIONAL
COMPETITIVENESS OF CONNECTICUT'S
LIQUOR PRICES***

February 23, 2016



Senator Leone, Representative Baram, Members of the Committee:

My name is Jay M. Hibbard, Vice President of Government Relations for the Distilled Spirits Council of the United States (DISCUS), a national trade association representing the world's leading makers and marketers of distilled spirits. Our member companies are:

- Agave Loco Brands – Chicago, IL
- Bacardi U.S.A., Inc – Miami, FL
- Beam Suntory – Deerfield, IL
- Brown-Forman Corporation – Louisville, Ky
- Campari America – San Francisco, CA
- Constellation Brands, Inc. – Victor, NY
- Diageo – Norwalk, CT
- Edrington – New York, NY
- Luxco, Inc. – St. Louis, MO
- MGP Ingredients – Lawrenceburg, IN
- Moet Hennessy USA – New York, Ny
- Patrón Spirits Company – Las Vegas, NV
- Pernod Ricard USA – New York, NY
- Remy Cointreau USA – New York, NY
- Sidney Frank Importing Co., Inc. – New Rochelle, NY

I am testifying today in support of S.B. 14: An Act Ensuring the Regional Competitiveness of Connecticut's Liquor Prices. This bill deals with a continued modernization of Connecticut's beverage alcohol marketplace. The changes as set forth would positively impact the ability for the free market to work as intended by providing greater marketplace competition, increased convenience, lower spirits and wine prices for Connecticut's consumers and significant additional revenue for the state treasury. We applaud Governor Malloy for his leadership on these issues.

Among other things, these changes would eliminate the minimum bottle pricing mark-up and allow retailers to sell our products at a price they determine rather than at a

government-mandated or wholesaler established single bottle price. This change would also serve to make Connecticut more competitive with its surrounding states, provide better pricing for consumers of beverage alcohol and increase revenue to the state. Allow me to focus on a few key points.

The minimum pricing law requiring retailers to sell at a certain artificial minimum price restricts the free market, results in higher consumer prices and interferes with consumer brand selection. Because price restrictions limit the price at which a retailer may sell alcohol, shelf prices are higher prices than in a true free market system

As you may be aware, the three most popular spirits product sizes are 750ml, 1 liter and 1.75 liter. Using data from the December 2015 Connecticut Beverage Journal – the bible of alcohol pricing for the state which contains the entire brand selection available in Connecticut, along with the wholesale case price and the single minimum bottle price that is the subject of S.B. 14, the difference in price between the case price per bottle and the posted single bottle price – the price below which no retailer can sell – can be dramatic. Let me cite a few examples. On Svedka vodka, one of the fastest growing spirits brands in the United States, the single bottle price of a 1.75 liter bottle, the most popular consumer size, is 26.9% higher than the single bottle case price; the single bottle price of a 750 ML bottle of Crown Royal is 15.8% higher than the single bottle case price; and the single bottle price of a 1.0 liter bottle of Smirnoff Vodka, the number one selling spirit in Connecticut, is 14.0% higher than the per bottle case price. These are but a few of the examples I could cite. With mark-ups like those, it's easy to see why retailers are so vehemently opposed to any changes to the state mandated price supports which prevent competition in the marketplace.

Proponents of maintaining the current system also attempt to divert the discussion about minimum bottle pricing by talking about Connecticut's excise taxes and Quantity Case Discounts. Let me briefly address those issues.

First, with regard to taxes, while perhaps not the highest, the excise tax rate in Connecticut is markedly higher than the rate of the surrounding states. This is further compounded with the fact that Massachusetts, the state most often referenced in discussion, does not apply a sales tax to package alcohol sales. However, while the Distilled Spirits Council is 100% supportive of any reduction in the current beverage

alcohol excise tax rate, the fact is much of the taxation that is applied to beverage alcohol is beyond the reach of state policymakers. Only by almost completely eliminating the state excise tax would there be any opportunity for a meaningful reduction in shelf price. You would probably agree that in the current budgetary environment that is not likely to happen.

Second, with regard to Quantity Case Discounts – those retailers that buy greater quantities of product get better prices – it is prohibited in Connecticut. This means that the price for the first case is the same as it is for 100 cases. Any discussion of quantity case discounts is simply an attempt to divert attention; it has nothing to do with the issue of minimum bottle price. Further, the per-bottle price when bought in cases is meaningless – retailers simply cannot sell it for that price because they must sell no lower than the posted single bottle price, which can be as much as 25% higher than the case-bottle price.

1. Opponents of eliminating the minimum mark-up scheme told you in 2012 that the state's adoption of Sunday sales would result in the closing of hundreds of stores. They also suggest that Sunday sales did not result in any additional sales, ergo, neither will the elimination of minimum-bottle pricing. We prefer to let the facts speak for themselves: 1) According to the Connecticut Department of Consumer Protection there has been no mass closing of package stores since the adoption of Sunday sales. In fact, not one store has closed as a result of the adoption of Sunday sales.
2. On the sales front, the Connecticut Department of Revenue Services reported that the adoption of Sunday sales resulted in \$1.3 million in additional excise taxes plus additional sales taxes. DRS further reported that sales of distilled spirits, which can only be purchased in Connecticut package stores, increased by more than 5%, precisely what we suggested would occur when the change was considered.

I would also like to address the revenue estimate should the General Assembly concur with the Governor's recommendations. We believe the Administration's estimates for new revenue to the state are very conservative. Our own economic analysis indicates that Connecticut may be losing as much as 12% of spirits, 15% of wine and

16% of beer volumes due to a lack of price competition. While a prediction of certainty is elusive, recovery of even half of these lost sales opportunities from surrounding states could amount to additional revenue to the state of \$150 million in retail revenue equating to nearly \$7 million in new excise and sales taxes. Our conservative estimate is that total new revenue to the state would be between \$5.2 million and \$8.1 million. I have attached our Economic Analysis indicating how we arrived at that amount for your review.

It is important to note that no other state in the country has a minimum bottle pricing scheme. Not one! And, many of those states have the same or no license cap or have more stores per capita than Connecticut and a thriving, competitive marketplace.

In closing, let me say that if restrictions on retail pricing were removed, retailers would sell at whatever price they thought would cover their costs and afford them a reasonable profit and more efficient retailers would be more price competitive than their less efficient neighbors. Those are not my words, but those of University of Connecticut economist, Dr. Stanley McMillen, a member of the Competitive Alcoholic Liquor Pricing Task Force, who went on to say that reducing prices to consumers through increased competition encourages growth in an industry at all levels. We agree with Dr. McMillen.

The change set forth in S.B. 14 is sensible, will provide expanded opportunities for Connecticut's businesses, enhance Connecticut's competitiveness, and contribute to an improved economy all while simultaneously delivering millions of dollars of new revenue to the state treasury. There is no question that these changes will benefit the residents, citizens and voters all across the Nutmeg State.

Many Connecticut news outlets have advocated for the elimination of the minimum pricing scheme including The Hartford Courant, the Connecticut Post, the Norwich Bulletin, and the Norwalk Hour. Their reasoning has been sound and to the point – these are positive marketplace changes that are long overdue.

These changes put consumers first and we would urge the General Law Committee to positively adopt the changes contemplated by S.B. 14 to implement the Governor's proposed budget.